

HAZCOM 2021 Fact Sheet

Federal OSHA's proposed 2021 changes to the Hazard Communication Standard (HCS) will allow manufacturers, importers and distributors to withhold essential chemical hazard information from workers, employers and emergency responders. Here are eight ways it will do that.

1) Diluting hazard with exposure (d)(1):

The proposal will allow producers to amend hazard assessments based on considerations of exposure and "foreseeable emergencies."

- The proposal will allow producers to withhold chemical hazard information based on the producer's assumption that workers would not be exposed to the chemical under "normal conditions of use and foreseeable emergencies."
- This change could reduce the amount of chemical hazard information available to workers, emergency responders and downstream users. Both "normal conditions of use" and "foreseeable emergencies" are largely unknowable by producers.
- This change contradicts HCS Appendix A, section A.0.1.1: "The term 'hazard classification' is used to indicate that only the intrinsic hazardous properties of chemicals are considered."

2) Obscuring multiple hazards (c.2.4.10)

The proposal will allow producers to choose a single hazard among the full scope of hazards that are associated with a chemical.

- This proposal will allow producers to withhold information on the label for the full range of hazards associated with a chemical. For example, a hydrocarbon that is both flammable and toxic could be labeled as one or the other, but not necessarily both.

- Because the great majority of chemicals used in commerce can present more than one hazard, this change would leave workers, emergency responders and downstream users without the information they need to implement effective engineering controls, select PPE and take other protective actions.
- This change is at odds with the purpose of the HCS, which is "to ensure that the hazards of all chemicals produced or imported are classified, and that information concerning the classified hazards is transmitted to employers and employees."

3) Discounting serious effects (A.3.2.3)

The proposal will allow producers to withhold evidence of a serious health effect in toxicological studies if the effect occurs among a range of other effects.

- The proposal will allow producers to assess serious health effects in the context of other effects: "For those substances where there is pronounced variability among animal responses, this information may be taken into account in determining the classification."
- If a chemical substance causes blindness in one animal in a toxicological study, for example, but only moderate opacity in others, the risk of blindness could be discounted.
- This change would allow producers to obscure hazard information from workers and emergency responders regarding a potentially serious, if less common, health effect associated with a chemical.

4) Abandoning PPE specifications (C.4.2 to C.4.7)

The proposal will no longer require producers to specify on the SDS the types of personal protective equipment (PPE) that are required to safely handle chemicals.

- Where producers were previously required under the HCS to “specify type of equipment”, the proposal would now make this optional: “Chemical manufacturer, importer, or distributor may to further specify type of equipment where appropriate.”
- Producers have the requisite expertise to specify the types of PPE that are required to safely handle specific chemicals. Workers and emergency responders rely on this information.
- The proposal would effectively shift the responsibility for determining appropriate PPE to downstream employers, which introduces new uncertainty and risks to workers and emergency responders.

5) Concealing chemical reactivity (f)(1)

The proposal will exempt producers from disclosing chemical hazards that result from a reaction with other chemicals under normal conditions of use.

- The exceptions to labeling containers have been expanded as follows: “Hazards not otherwise classified and hazards resulting from a reaction with other chemicals under normal conditions of use do not have to be addressed on the container.”
- Producers have little understanding of the “normal conditions of use” because they have little information on the ways in which their chemicals are actually used in commerce.
- It is essential that emergency responders and transport workers who handle mixed loads understand the potential explosive, toxic or flammability hazards that could as a result of mixing specific types of chemicals.

6) Obscuring transportation hazards (f)(5)

The proposal will no longer require producers to identify chemical hazards on bulk containers in shipment, allowing information to be transmitted electronically to the destination.

- Many workers handle chemicals in bulk containers in transit, prior to the container reaching its destination. The proposed change would leave these workers unaware of potential risks in handling these loads.
- In the event of a transportation accident, emergency responders would have less information on which to base decisions about firefighting, PPE, containment of spills, and evacuations.
- Emails and shipping papers are not necessarily communicated effectively to those handling containers on shipping docks and in warehouses.

7) Ignoring scientific expertise

The proposal would continue to dismiss chemical hazard information developed by scientific bodies and disseminated through comprehensive lists of uniquely hazardous chemicals.

- The proposal does not require producers to classify and label chemical substances regulated by OSHA, including ones for which there is a PEL. It also ignores the expertise of NIOSH, U.S. EPA, the International Agency for Research on Cancer (IARC), the U.S. Agency for Toxic Substances and Disease Registry (ATSDR) and other authoritative bodies, which have developed more than 20 comprehensive lists of hazardous chemicals.

- ❑ By dismissing the expertise of OSHA and other authoritative bodies, the proposal defaults completely to the judgement of economically invested producers to determine hazard classifications. The result is a more uncertain, less scientific and more uneven classification process, which translates into less reliable hazard information and greater risks to workers and emergency responders.
- ❑ Chemicals listed by authoritative bodies should be presumptively assigned to hazard classes designated by the listing. This should determine the hazard classification and should be disclosed on the SDS.

**8) Withholding evidence (d)(2) (a.0.3.5)
(a.7.2.3.1) (Appendix D, SDS, row 3)**

The proposal will continue to allow producers to withhold findings from a single, positive study in determining the hazard classification. The proposal will newly allow producers to claim the exact concentration of chemicals in a product as a trade secret and refer instead to concentration “ranges.”

- ❑ Even when a study of health effects is “performed according to good scientific principles and with statistically or biologically significant positive results,” producers are given the option of not disclosing the results of the study in classification and labeling.
- ❑ A study of this type represents the highest standard of evidence in establishing causation in health studies; it should determine the hazard classification and should be communicated to workers and employers.
- ❑ Information on the range of chemicals in a product increases uncertainty for workers as well as for regulators, employers, worker representatives and other decision-makers.
- ❑ The HCS should serve to counterbalance the incentive of producers to not disclose the findings of a single study if that study shows evidence of harm for a chemical in which the producer has an economic interest.

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